

MEMORANDUM

September 13, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: JACK M. SCHULER, ESQ.
Schuler & Brown

OWEN L. GALLAGHER
Principal Deputy County Counsel
General Litigation Division

RE: Susana Ortiz, Melissa Sue Ortiz and Chelsea Ortiz, minors by and through their Guardian Ad Litem Susana Ortiz v. County of Los Angeles
North Valley Superior Court Case No. PC031270

DATE OF
INCIDENT: December 14, 2001

AUTHORITY
REQUESTED: \$500,000, Plus Assumption of the Medi-Cal Lien Not to Exceed \$1,886.95

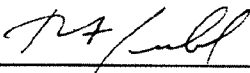
COUNTY
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES


CLAIMS BOARD ACTION:

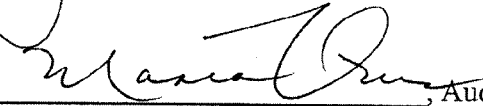
☐ Approve

☐ Disapprove

☒ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on October 4, 2004

SUMMARY

This is a recommendation to settle for \$500,000, the wrongful death lawsuit brought by Susana Ortiz (wife), Myra Ortiz (daughter), Nancy Lee Ortiz (daughter), Melissa Sue Ortiz (minor daughter), and Chelsea Ortiz (minor daughter) for the death of Hector Ortiz while hospitalized at Olive View/UCLA Medical Center on December 18, 2001. The State, having paid \$1,886.95 for the provision of Medi-Cal care, has a claim for reimbursement, which will be settled by the County.

LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

On December 8, 2001, at 5:44 p.m., Hector Ortiz, a 51-year-old man with a disorder caused by the failure of the pancreas to release enough insulin into the blood (diabetes mellitus), was seen in the Emergency Room at Olive View/UCLA Medical Center with complaints of fever, chills, nausea, and vomiting. He was diagnosed with a viral syndrome, which medical personnel believed was related to a flu-shot he had received 5 days earlier. In addition, laboratory tests suggested that Mr. Ortiz might be suffering from a condition caused by diabetes where there is an excessive level of acid and ketones in the blood (ketoacidosis). Diabetic individuals are at risk of developing respiratory infections. Mr. Ortiz was given insulin, and discharged.

On December 10, 2001, at 11:20 a.m., Mr. Ortiz was seen in the Emergency Room at Olive View/UCLA Medical Center with complaints of diffuse muscle pain, shakes, fever, and chest pain. Laboratory tests again suggested that he was suffering from diabetic ketoacidosis. He was diagnosed with an inflammation of the lungs caused by an infection (pneumonia), given antibiotics, and discharged with instructions to return if his symptoms worsened.

On December 14, 2001, at 7:45 p.m., Mr. Ortiz was again seen in the Emergency Room at Olive View/UCLA Medical Center with complaints of continuing chest pain and shortness of breath. Although laboratory tests indicated that Mr. Ortiz was suffering from diabetic ketoacidosis and an infection, the results of these laboratory tests were not read by medical personnel. Hector Ortiz was discharged on December 15, 2001, at 2:25 a.m.

On December 17, 2001, at 9:02 a.m., Hector Ortiz was seen in the Emergency Room at Olive View/UCLA Medical Center with complaints of a headache and weakness. It was determined that he was suffering from severe ketoacidosis, and an overwhelming infection (sepsis). At 4:47 p.m., a breathing tube was inserted through his nose, past the voice box (intubation), and he was placed on a mechanical device to aid respiration (ventilator). At 6:30 p.m., Mr. Ortiz was transferred to the Intensive Care Unit (ICU). However, despite aggressive treatment, his condition continued to deteriorate.

On December 18, 2001, at 2:30 p.m., Mr. Ortiz suffered a complete cessation of breathing and heart function (cardiopulmonary arrest). Restoration of heart and lung function using artificial respiration and manual closed chest compression (cardiopulmonary resuscitation [CPR]) was initiated, and he was resuscitated. However, at 6:00 p.m., Mr. Ortiz suffered a second cardiopulmonary arrest. Although CPR was initiated, he could not be resuscitated. Hector Ortiz was pronounced dead at 6:30 p.m. An autopsy performed by the Los Angeles County Coroner attributed the cause of death to an inflammation of the membranes covering the brain and spinal cord (meningitis) due to pneumonia resulting from diabetes mellitus.

DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Susana Ortiz,	
Loss of Future Support	\$542,000
Loss of Future Spousal Services	\$ 40,000
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 50,000
Myra Ortiz,	
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 50,000
Nancy Lee Ortiz,	
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 50,000
Melissa Sue Ortiz,	
Loss of Future Fraternal Services	\$ 40,000
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 50,000
Chelsea Ortiz,	
Loss of Future Fraternal Services	\$ 40,000
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 50,000
Funeral Expenses	\$ <u>17,500</u>
TOTAL	\$929,500

The proposed settlement includes:

Susana Ortiz, Loss of Care, Comfort and Companionship	\$272,625
Myra Ortiz, Loss of Care, Comfort and Companionship	\$ 10,200
Nancy Lee Ortiz, Loss of Care, Comfort and Companionship	\$ 10,200
Melissa Sue Ortiz, Loss of Care, Comfort and Companionship	\$ 50,000
Chelsea Ortiz, Loss of Care, Comfort and Companionship	\$ 50,000
Attorneys Fees (MICRA Estimate)	\$ 94,475
Costs of Litigation	<u>\$ 12,500</u>
TOTAL	\$500,000

STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through September 13, 2004, are attorney fees of \$59,201 and \$18,727 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$500,000.00
County Attorney Fees and Costs	\$ 77,928.00
Medi-Cal Lien	<u>\$ 1,886.95</u>
TOTAL	\$579,814.95

EVALUATION

Medical experts will be critical of the failure of medical personnel to review the results of laboratory tests taken on December 14, 2001, which indicated that Hector Ortiz was suffering from diabetic ketoacidosis and an infection. This failure fell below the standard of care, resulted in a missed opportunity to admit Mr. Ortiz for further evaluation and treatment of his worsening condition, and is directly responsible for the results observed here.

We join with our private counsel, Schuler & Brown, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$500,000, and payment of the Medi-Cal lien in the amount of \$1,886.95.

The Department of Health Services concurs in this settlement.